

PUBLIC MEETING MINUTES

December 10, 2009

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street
Sacramento, CA 95811

Acting Chair Dowdin Calvillo called the meeting to order at 10:05 a.m.

Members Present

Alice Dowdin Calvillo, Acting Chair
Sally M. McKeag, Member
Karen L. Neuwald, Member
Robin W. Wesley, Member

Staff Present

Tami Bogert, General Counsel
Les Chisholm, Division Chief, Office of the General Counsel
Bernard McMonigle, Chief Administrative Law Judge

Call to Order

After establishing that a quorum had been reached for the purposes of the December 10, 2009 public meeting, Acting Chair Dowdin Calvillo called the Board to order for a return to the open session of the October 8, 2009 Board meeting. She reported that the Board met in continuous closed session to deliberate on pending cases on the Board's docket, pending requests for injunctive relief, and pending litigation, as appropriate.

Acting Chair Dowdin Calvillo read into the record the decisions that issued since the open session in October. Those were PERB Decision Nos. 2058a-M, 2070-H, 2071-M, 2072-S, 2073, 2074-M, 2075-M, 2076-M, 2077-M, 2078-S, 2079-M, 2080-M, 2081-S, 2082 and 2083-M. In request for injunctive relief (I.R.) No. 578 (*Coalition of University Employees v. Regents of the University of California (Riverside)*), the request was denied. A document containing a listing of the aforementioned decisions was made available at the meeting.

Without objection, Acting Chair Dowdin Calvillo adjourned the October 8, 2009 public meeting. She then opened and called to order the December 10, 2009 public meeting. Member Neuwald led in the Pledge of Allegiance to the Flag.

Minutes

Motion: Motion by Member McKeag and seconded by Member Neuwald that the Board adopt the minutes for the October 8, 2009 public meeting.

Ayes: Dowdin Calvillo, McKeag, Neuwald, and Wesley.

Motion Adopted – 4 to 0.

Comments From Public Participants

None.

Staff Reports

The following staff reports were received with the caveat that any matter requiring action by the Board and not included as an item in today's agenda would be scheduled for consideration at a subsequent meeting.

a. Administrative Report

Acting Chair Dowdin Calvillo announced that Chief Administrative Officer Eileen Potter was out on an excused absence, and there was no administrative information to report at this time.

b. Legal Report

General Counsel Tami Bogert reported that the monthly activity and litigation reports had been distributed to the Board for their review. From those reports, Ms. Bogert recapped in particular since the Board's last public meeting in October, the following information. With regard to monthly activities, Ms. Bogert reported during the months of October and November, 124 new cases were filed with PERB; 141 case investigations were completed; and a total of 30 informal settlement conferences were conducted by PERB staff. In the same two-month period, as Acting Chair Dowdin Calvillo reported earlier, one request for injunctive relief was filed with PERB and subsequently denied by the Board.

In terms of litigation, Ms. Bogert reported the First District Court of Appeal issued an unpublished decision last month, in *International Federation of Professional & Technical Engineers Local 21 v. PERB*, affirming PERB Decision No. 1948. There was no appeal filed, thus appearing that the court's opinion would become final and closed in short order.

Ms. Bogert also reported on the case of *PERB v. SEIU Local 521*, where PERB sought and was granted a temporary restraining order and subsequently a preliminary injunction by the Santa Clara County Superior Court to enjoin specified essential employees of the City of Palo Alto from participating in strike activity. As an update to that case, Ms. Bogert reported SEIU Local 521 filed a notice of appeal of the superior court's order granting the preliminary

injunction. She will keep the Board apprised of future developments in the anticipated appellate litigation in the Sixth District Court of Appeal.

Ms. Bogert's final note regarding litigation pertained to three Sacramento County cases pending in the Third District Court of Appeal. She stated that these three cases involve challenges to three Board decisions finding unlawful the County's discontinuation of certain retirement benefits for certain County employees. As an update to this case, Ms. Bogert reported the County has filed opening briefs in all three cases, which in turn makes PERB's opposition due next month.

Chief Administrative Law Judge Bernard McMonigle reported on the activities of the Division of Administrative Law and stated a report had been distributed to the Board for their review. Mr. McMonigle summarized the activities of his Division by stating that in December, approximately 50 new cases had been assigned for formal hearing to the Division's six administrative law judges. He also reported by the end of this calendar year, approximately 30 cases will issue.

In regards to a personnel matter in his Division, Mr. McMonigle reported that Ann Weinman from the PERB Los Angeles Regional Office will be retiring in May 2010. Due to fiscal constraints, Ms. Weinman's position will not be filled immediately.

c. Legislative Report

Les Chisholm, Division Chief, Office of the General Counsel, stated that at the previous public meeting he reported on and has been monitoring Senate Bill 656. Since that time, the Governor vetoed the bill. Senate Bill 656 would have modified the Meyers-Milias-Brown Act by removing from PERB jurisdiction bargaining units where a majority are peace officers as defined under Penal Code section 830.1. The veto message focused on the inconsistent treatment of non-peace officers that the legislation would have resulted in.

Motion: Motion by Member Wesley and seconded by Member McKeag that the Administrative, Legal (including General Counsel and Chief Administrative Law Judge), and Legislative Reports be accepted and filed.

Ayes: Dowdin Calvillo, McKeag, Neuwald, and Wesley.

Motion Adopted – 4 to 0.

Old Business

None.

New Business

None.

General Discussion

Acting Chair Dowdin Calvillo announced that there being no further business, it would be appropriate to recess the meeting to continuous closed session and that the Board would meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through February 11, 2010 when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board. The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. Code sec. 11126(c)(3)), personnel (Gov. Code sec. 11126(a)), pending litigation (Gov. Code sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code sec. 11126(e)(2)(c)).

Motion: Motion by Member Neuwald and seconded by Member Wesley to recess the meeting to continuous closed session.

Ayes: Dowdin Calvillo, McKeag, Neuwald, and Wesley.

Motion Adopted – 4 to 0.

Respectfully submitted,

Chris Wong, Administrative Assistant

APPROVED AT THE PUBLIC MEETING OF:

Alice Dowdin Calvillo, Acting Chair